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IN THE

SUPREME COURT OF THE UNITED STATES

October Term, 1973

No. 73-703

CONNECTICUT COMMISSION ON HUMAN RIGHTS AND OPPORTUNITIES,

Petitioner,

v.

VEEDER ROOT COMPANY, A DIVISION OF VEEDER INDUSTRIES, INC.,

Respondent.

ON PETITION FOR A WRIT OF CERTIORARI TO THE SUPREME COURT OF THE STATE OF CONNECTICUT

BRIEF FOR RESPONDENT IN OPPOSITION

OPINIONS BELOW

The decision and order of the Hearing Tribunal of the Connecticut Commission on Human Rights and Opportunities is unreported and is fully and accurately printed in Appendix A of the Petition. The memorandum of decision of the Superior Court for Hartford

County, State of Connecticut is reported in 4 Employment Practices Decisions (E.P.D.), Paragraph 7801; and in 4 Fair Employment Practices (F.E.P.) Cases 783; and is printed fully and accurately in Appendix D of the Petition. The opinion of the Supreme Court of the State of Connecticut is reported in 35 Connecticut Law Journal, No. 5, p. 1 (July 31, 1973); and in 6 F.E.P. Cases 186; and is fully and accurately printed in Appendix E of the Petition.

JURISDICTION

The jurisdictional requisites are adequately set forth in the Petition.

QUESTIONS PRESENTED

1. Is a substantial federal question presented where the Connecticut Supreme Court, in interpreting its own statutes and rules of practice, requires the Attorney General of the State of Connecticut, who is charged with the duty of litigating individual civil rights complaints, to give proper notice to all affected members of an alleged class in order for a Connecticut Civil Rights Tribunal to render class relief?

2. Does the Supreme Court of the State of Connecticut have the right to fix certain minimal standards of procedural due process in order to insure that all parties to an alleged class action have full and fair notice thereof?

3. Is the federal analogy to class actions brought under Title VII of the Civil Rights Act applicable in light of the Connecticut statutory framework for enforcing civil rights?

4. Does the Supreme Court of the State of Connecticut have the affirmative duty to provide relief consistent with Title VII of the 1964 Civil Rights Act as interpreted by the federal courts when deciding a civil rights case brought under the Connecticut Fair Employment Practices Law?

STATEMENT OF THE CASE

Respondent, Veeder-Root Company, is an operating division of Veeder Industries Inc., a Connecticut corporation. The Hartford, Connecticut, plant of Veeder-Root Company, among other products, manufactures approximately 200 different types of basic counters,or

"families" of counters, such as that which measures gallonage and cost in a typical gasoline pump. Within each of the 200 "families" of basic counters there are variations, so that overall the Plant makes and has made about 4,000 different kinds of counters. Of the 200 basic families of counters manufactured at plaintiff's Plant, Department 99 where the original complaint arose makes, or has made, 150 of them.

The counter assembly work in Department 99 is done by three job classifications - from lowest to highest, assembler A, assembler B and assembler A (prime). The production mix of the department is such that higher-graded employees may on occasion be assigned to perform assembly work usually performed by the lower labor grades in order to fill customer requirements. This is a practical manufacturing necessity and is contemplated by the provisions of the collective bargaining agreement with Local 354, District 26, of the International Association of Machinists, which provides for wage rates established on a weekly basis and affords protection against the

down-grading of employees.

The job descriptions for assembly A, assembly B and assembly A (prime) indicate on their face substantial differences in the skill required to perform the three assembly jobs. The job description of assembly A requires a "good" knowledge of "counter mechanisms", calls for the complete assembly of a "specific line or type of counters" from parts and subassemblies provided from stock, and the use of a variety of hand tools to do such assembly work. The job descriptions of assembly B and A (prime), on the other hand, call for the complete assembly of a "variety" of counters and critical machining, measuring, straightening, adjusting, testing and analytical operations.

The original complainant, Hilda G. Moe, has been employed by the Respondent for over 21 years. For some time prior to, and as of the date of the complaint, she was classified as an assembler A and her job assignment was the assembly of the specific line of counter known as the Visi-Counter. She builds this line of counter complete obtaining parts from stock, checking the blueprints for the

component part numbers and uses the various hand tools specified in the job description for assembly A. She has never assembled, either partly or completely, almost all of the Series of counters assigned to assembler B and A (prime).

On February 26, 1969 Miss Moe filed a complaint with the Connecticut Commission on Human Rights and Opportunities against the Respondent company claiming a violation of the Connecticut Fair Employment Practices Act. (See Appendix A, infra). In her complaint Miss Moe referenced a conversation she had with her supervisor on January 22, 1969 which formed the basis for her allegation of discrimination. She then alleged that "I feel I am being discriminated against because of my sex (female)." (Id, p. 2.a)

On December 19, 1969 the Commission notified the Respondent that a hearing would be held on January 20, 1970, "upon said complaint against you and to answer the charges of said complaint." (See Appendix B, infra). On December 30, 1969 the Respondent filed an answer to the complaint denying any violation

of the applicable section of the Connecticut Fair Employment Practices Act. (See Appendix C, infra).

Hearings were held on January 20th, January 27th, March 31st, April 20th, April 21st, May 18th, May 19th, November 10th and December 10th, 1970 before a Hearing Tribunal consisting of three Hearing Examiners (See Decision of Hearing Tribunal, Appendix A of Petition). On May 18, 1971, the Tribunal issued its order, a copy of which is printed in full in the Petition. In its decision the Tribunal found that the Respondent had discriminated against Miss Moe on the basis of her sex. It went further, however, and found such discrimination applicable to all female members of Department 99 and ordered back wages be paid to Miss Moe from the effective date of the Connecticut Fair Employment Practices Act.

On May 28, 1971 the Respondent, pursuant to Section 31-128 of the Connecticut General Statutes (Revision of 1958), petitioned the Superior Court for Hartford County for a review of the Tribunal's order. In that petition the Respondent raised various substantive and

procedural claims of error. In its Answer the Commission, by way of counter claim, sought to have the Tribunal's order enforced by the court.

The petition was referred to the Hon. Howard W. Alcorn, a Referee of the State of Connecticut, to hear the evidence, report the facts and enter judgment in the case. After a review of the entire Record and lengthy briefs by both the company and the Commission judgment was entered affirming the Tribunal's substantive finding that Miss Moe had been discriminated against on the basis of her sex but modifying the Tribunal's order insofar as it purported to award damages to an entire class of persons retroactive to the effective date of the Connecticut Fair Employment Practices Act. (See Memorandum of Decision of the Superior Court for Hartford County, Appendix D of the Petition). No appeal was taken by the Respondent from the decision on the substantive issue of discrimination. The Commission appealed from the court's decision modifying the Tribunal's order to the Supreme Court of the State of Connecticut. That court affirmed the judgment of the Superior Court

insofar as it held class relief to be inappropriate and modified the award of back pay to Miss Moe to include the differential from the date ninety days before the filing of the complaint to the date of the complaint. (See Opinion of the Supreme Court of the State of Connecticut, Appendix E of the Petition).

ARGUMENT

I. NO SUBSTANTIAL FEDERAL QUESTION IS PRESENTED WHEN THE CONNECTICUT SUPREME COURT, IN INTERPRETING STATUTES AND REGULATIONS OF THAT STATE, REQUIRES THE ATTORNEY GENERAL OF CONNECTICUT TO GIVE NOTICE TO ALL AFFECTED MEMBERS OF A CLASS, BEFORE PERMITTING A STATE ADMINISTRATIVE AGENCY TO RENDER CLASS RELIEF.

A. PROCEDURAL DUE PROCESS---THE FRAMEWORK OF THIS ACTION.

The resolution of disputes between citizens by an impartial arbiter who hears and decides issues of fact and law has been the keystone of our rule of law. The willingness of litigants to have their differences resolved by such third persons depends in large measure on their belief that the procedure by which their respective cases are presented to him or it will be fair and will insure a full presentation of the issues. To this end the courts have developed voluminous bodies of law

which govern the method by which disputes must be brought and the evidence which is admissible with regard to the questions at bar.

However, with the growth of governmental agencies, each with its own area of social interest, there developed a crazy-quilt of procedure applicable to each body. While the administrative agency ostensibly fills the role of arbiter of citizen disputes, frequently, by virtue of its legislative mandate, it actually becomes an adversary in the proceedings over which it has jurisdiction. As a result judicial intervention has been necessitated to review not only the rule making process of the agency but often times the legislative grant of power to it as well.

Because of the overlap of administrative, legislative and quasi-judicial functions inherent in the exercise of an agency's power the courts have been called upon time and again to insure that the use of such governmental power measures up to the fundamental fairness required by the due process clause of the Fourteenth Amendment to the United States Constitution. In Morgan v. United States,

304 U.S. 1, 14 (1938), this court said:

> The vast expansion of this field of administrative regulation in response to the pressure of social needs is made possible under our system by adherence to the basic principles that the legislature shall appropriately determine the standards of administrative action and that in administrative proceedings of a quasi-judicial character the liberty and property of the citizen shall be protected by the rudimentary requirements of fair play. (1)

As with so many aspects of governmental regulation of citizen interests "consideration of what procedures due process may require under any given set of circumstances must begin with a determination of the precise nature of the governmental function involved as well as of the private interest that has been affected by governmental action." Cafeteria & Restaurant Workers Union v. McElroy, 367 U.S. 886, 895 (1961). See also Hannah v. Larche, 363 U.S. 420, 440, 442 (1960). Thus it has been held that those who are brought into contest with the government in a

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(1) Connecticut adopted the notion of procedural due process in administrative proceedings as part of the public policy of that state in New Haven v. New Haven Water Co., 132 Conn. 496, 512, 45 A. 2d 831 (1946).

quasi-judicial proceeding aimed at the control of their activities are entitled to be fairly advised of what the government claims so that they may properly prepare and present a response thereto. Gonzales v. United States, 348 U.S. 407, 414 (1955); Morgan v. United States, supra, 304 U.S. at p. 18. Included among the necessary rights inherent in the presentation of one's case is the right of confrontation of witnesses and cross examination. Goldberg v. Kelly, 397 U.S. 254, 269 (1970).

The reason for insisting upon knowing who is making a claim and the basis for such a claim is obvious. In order to frame a defense properly it is imperative that a litigant know the parameters of the claim, the persons making same and the facts that support it. "To experienced lawyers it is commonplace that the outcome of a lawsuit --- and hence the vindication of legal rights --- depends more often on how the fact finder appraises the facts than on a disputed construction of a statute or interpretation of a line of precedents. Thus the procedures by which the facts of the case

are determined assume an importance fully as great as the validity of the substantive rule of law to be applied." Speiser v. Randall, 357 U.S. 513, 520 (1958). It is axiomatic that the framework within which a case is presented is determined by the parties before the court or administrative agency hearing and deciding the dispute. It is for this reason that this court said in Covey v. Town of Somers, 351 U.S. 141, 146 (1956) citing Mullane v. Central Hanover Bank & Trust Co., 339 U.S. 306, 314-315 (1950):

> An elementary and fundamental requirement of due process in any proceeding which is to be accorded finality is notice reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections. . . .

In the present case, notice of the claim lodged against the Respondent by Miss Moe was never given to the other members of Respondent's Department 99 nor to the union with whom Respondent has signed a collective bargaining agreement. Yet the decision by the Hearing Tribunal affected not only the other workers in Department 99, but the union itself.

Clearly notice should have been given to all interested parties.

B. THE CONNECTICUT SUPREME COURT MERELY ESTABLISHED THE CRITERIA FOR PROCEDURAL DUE PROCESS BEFORE A STATE ADMINISTRATIVE AGENCY, CONSISTENT WITH SUBSTANTIVE DUE PROCESS STANDARDS.

In its Petition for Certiorari the petitioner makes repeated claims that the Connecticut Supreme Court imposed a strict application of local rules of practice against a "lay pleader" with the result that her Fourteenth Amendment rights were violated.(2) The fallacy of this argument is that under Connecticut's statutory and administrative framework, the complaint, once filed, becomes a Commission complaint and the Attorney General for the State of Connecticut becomes the advocate for the complainant. Therefore, it does not lie with the petitioner to complain that it should be held to a standard of pleading that insures full and adequate notice to all interested parties.

In her complaint dated February 26, 1969, (Appendix A, infra) Miss Moe cites two specific

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(2) Petitioner's Brief, pp. 8-10, 15

incidents involving her supervisor and on the basis of these incidents and her prior employment with the Respondent she alleges:

> I feel I am being discriminated against because of my sex (female). (Id., p. 2.a)

As a result of this complaint, the Commission on Human Rights and Opportunities, acting through its director, ordered the Respondent to appear for a hearing "upon said complaint" and to "answer the charges of said complaint." (Appendix B, infra). To this complaint the Respondent filed an answer denying any violation of Section 31-126 "with respect to complainant, Hilda G. Moe" (Appendix C, infra). Taken together, these three documents constitute the "pleadings" which framed the issues and upon which evidence was taken by the Tribunal. The trial court below specifically found that "the clear import of the complaint was that she, as one of the women in the department, was, without any bona fide occupational qualification or need, being discriminated against in compensation because of her sex." (Petitioner's Appendix D, p. 66).

It is conceded by all parties to this action that once the complaint of an individual

goes beyond the investigative stage and reaches the hearing stage it becomes the Commission's complaint.[3]

The trial court held as a matter of law that "the Commission becomes the party in support of the complaint and the adversary party is the one against whom complaint is made."[4] (Petitioner's Appendix D, p. 59). This Connecticut system of procedure is what limits this case to a determination based upon Connecticut law and which makes the numerous references in Petitioner's brief to federal cases decided on the basis of Title VII of the Civil Rights Act of 1964 (42 U.S.C. §2000e et seq.) inapposite.[5] It was upon this basis that the trial court

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(3) In its brief filed with the Connecticut Supreme Court, the petitioner said at p. 13:

"In the instant case, the complaint itself attacks the entire job classification structure for assemblers in Department 99 and once it had been filed with the defendant it became a Commission complaint.... By statute, the complaint was prosecuted by the public attorney in civil matters, the Attorney General."

(4) See also Draper v. Clark Dairy, Inc., 17 Conn. Supp. 93, 94-95 (1950).

(5) It is noteworthy that Justice Alcorn, former Chief Justice of the Connecticut Supreme

found that the attempt of the Tribunal to convert a single complaint to an order purporting to give relief to an entire class was a "radical and unsound departure. . . from the concept of due process of law which has long obtained in Connecticut." (Petitioner's Appendix D, p. 67).

In view of its role as a substitute complainant, it ill behooves the Petitioner herein to argue that the ruling of the Connecticut Supreme Court was based upon "the complainant's failure to draft her lay complaint in accordance with rules appropriate to a lawyer's hand." (Petitioner's Brief, p. 15). Indeed by the time the matter has reached the hearing stage the role of complainant has been assumed

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(5) Court, who decided this case as a State referee also was called upon to rule on the validity of the same procedure followed by the old Inter-Racial Commission in Draper v. Clark Dairy, Inc., 17 Conn. Supp. 93 (1950). He quickly saw the inherent unfairness of what purports to be a quasi-judicial process:

"Since the proceeding is one in which the commission presents the complaint before itself as an arbiter, it is essentially inquisitorial. It lacks the elements of a judicial or quasi-judicial proceeding in which parties litigate adverse interests before an impartial tribunal." (Id., p. 96)

by the Commission, which has its own capable lawyer, to wit: the Connecticut Attorney General. As the trial court found:

> If the Commission had wished to treat the complaint as a spring board for a class action action, it could have made its own complaint on behalf of all women in the department. § 31-127; (6) see § 52-105. It did not do so, however, but elected to prosecute the individual complaint of Hilda Moe before the tribunal. (Petitioner's Appendix D, p. 67).

Similarly, the Connecticut Supreme Court held:

> Since the individual complaint of Hilda Moe fairly read, did not provide the Respondent, the plaintiff, with notice of the scope of the action and since the Commission, under § 31-217 of the General Statutes, was empowered to issue a new complaint attacking department-wide sex discrimination which would have apprised the plaintiff of the scope of the action, we conclude that the plaintiff was justified in its belief that the Commission's attack was directed solely at sex discrimination as applied only to Hilda Moe. It was,therefore, improper for the Commission to issue an order requiring the plaintiff to cease and desist from department-wide discrimination. (Petitioner's Appendix E, p. 80).

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(6) Connecticut General Statutes (Revision of 1958) § 31-127, provides in part that when an individual complains to the Connecticut Commission on Human Rights and Opportunities about alleged discriminatory practices, "the Commission, whenever it has reason to believe that any person has been engaged or is engaged in an unfair employment practice, may issue a complaint". (Emphasis added).

Thus this case is really concerned with the pleading requirements to be imposed upon the Commission itself, not with those required of Miss Moe. The Commission, with its own staff counsel and ably represented by an experienced attorney from the office of the Attorney General, is simply being asked to fulfill the notice and pleading requirements of any other litigant represented by counsel. It is contended that in the burgeoning area of administrative law it would be improvident for this Court to permit an improvised class action procedure to be developed on an ad hoc basis. Surely, the State of Connecticut should be permitted to develop an orderly administrative framework that insures procedural due process to all parties involved.

II. THE FEDERAL ANALOGY TO CLASS ACTIONS BROUGHT UNDER TITLE VII OF THE CIVIL RIGHTS ACT IS INAPPOSITE.

The thrust of Petitioner's claim is that it was improper for the Connecticut courts to decide the class action aspect of this case on the basis of Connecticut law, by raising the federal analogy. In doing so, it relies on

Bowe v. Colgate Palmolive Co., 416 F. 2d 711 (7th Cir. 1969) in which the United States Court of Appeals for the Seventh Circuit held that the District Court could remedy a discriminatory job situation by granting relief not only to the named plaintiff, but to all employees similarly situated. However, that court specifically held that under Title VII of the 1964 Civil Rights Act, a plaintiff brings an action as a "private attorney general." 416 F. 2d at 719.

However, under Connecticut's statutory framework, it is the Commission itself that becomes the complainant and it is represented by the Attorney General, who is charged by virtue of his office with the duty of representing the Commission.(7) Because the Commission is both the complainant, the fact finder and ultimate arbiter the procedure, as was noted earlier, is "inquisitorial" and lacking in the elements of a judicial or quasi-judicial proceeding. Draper v. Clark Dairy, Inc., 17 Conn. Supp. 93, 96 (1950). Since the

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(7) Connecticut General Statutes (Revision of 1958), § 3-125.

whole panoply of procedural due process rights, which are inherent in a judicial setting, are missing from the administrative procedure surrounding the practice before the Connecticut Commission on Human Rights and Opportunities, it is doubly important for the court to insure that minimal notice requirements are met.(8)

Thus, in cases such as Hutchings v. United States Industries, Inc., 428 F. 2d 303 (5th Cir. 1970) and Fogg v. New England Telephone & Telegraph Co., 346 F.Supp. 645 (D.N.H. 1972) wherein class actions were permitted under the federal statute, the courts speak of the judicial role in the "private attorneys general" actions and the attendant procedural safeguards that come into play for all interested parties. In Fogg, there was an attempt

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(8) Interestingly enough, Connecticut recently adopted the Uniform Administrative Procedures Act, which specifically requires that all interested parties be given notice of the pendency of a hearing in a contested case. See Conn. Gen. Stats. (Rev. 1958) § 4-177. In any appeal from a decision of an administrative agency, copies of the appeal must be served on "all parties of record." Id. § 4-183. While this law did not become effective until January 1, 1972, some eight months after the date of the Hearing Tribunal's decision, the

to amend the complaint to make it a class action some two years after the case was begun. The court refused to permit the amendment on the ground of laches, but permitted evidence of plantwide discrimination in proof of the case chief, saying that the plaintiff took on the mantle of the sovereign in view of her role as a private attorney general. 346 F.Supp. at 650.

In Jenkins v. United Gas Corp., 400 F.2d 28 (5th Cir. 1968), which Petitioner relies on for the claim that the court should grant class relief in employment discrimination suits against private employers (Petitioner's Brief p. 7), the court permitted class wide relief notwithstanding the individual complaint, because it specifically found that the complaint was a model of specificity in alleging plantwide, system wide racial discrimination (Id. at p. 31) and therefore, took evidence and decided the case on that basis. In the present case, the Hearing Tribunal attempted

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(8) Commission has yet to amend its own regulations to conform to the notice and hearing requirements called for in the statute.

to convert this case from a simple complaint to a class action without even a bow to the procedural requirement of notice and a right to be heard by all parties involved. The trial court quite properly held that such a procedure was a radical and unsound departure "from the concept of the due process of law which has long obtained in Connecticut." (Petitioner's Appendix D, p. 67). Because of Connecticut's notice requirements and the role of the Connecticut Attorney General and Commission on Human Rights and Opportunities as actual litigants herein, the federal analogy simply does not apply.

III. THE SUPREME COURT OF CONNECTICUT DOES NOT HAVE AN AFFIRMATIVE DUTY TO PROVIDE RELIEF CONSISTENT WITH TITLE VII OF THE 1964 CIVIL RIGHTS ACT AS INTERPRETED BY THE FEDERAL COURTS WHEN A CIVIL RIGHTS ACTION PROSECUTED UNDER THE CONNECTICUT FAIR EMPLOYMENT PRACTICES ACT HAS FAILED TO MEET THAT STATE'S PROCEDURAL DUE PROCESS REQUIREMENTS.

A theme running throughout the Petitioner's brief, is that the Connecticut courts had an affirmative duty pursuant to the Supremacy

Clause of the United States Constitution, (9) to grant relief sought under the Connecticut Fair Employment Practices Act as though the claim has been brought under Title VII of the 1964 Civil Rights Act and in doing so, to apply the case law developed in the federal courts. In support thereof, Petitioner relies on Perez v. Campbell, 402 U.S. 637, 652 (1971), for the proposition that "state legislation which frustrates the full effectiveness of federal law, is rendered invalid by the Supremacy Clause." (Petitioner's Brief, p. 14). This argument implies a process in which the Petitioner seeks to engraft the entire federal Civil Rights Act and all of the attendant federal court decisions interpreting same onto the substantive and procedural law of Connecticut. Out of this process would emerge

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(9) United States Constitution, Article VI, Clause 2:

This Constitution, and the Laws of the United States, which shall be made in pursuance thereof; and all Treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every state shall be bound thereby, any thing in the Constitution or laws of any state to the contrary notwithstanding.

the reverse of the so-called "pendent jurisdiction" which exists in the federal courts.(10) The state courts would thus be vested with jurisdiction to enforce and interpret a federal statute.

If the contention that the courts of the State of Connecticut have the duty of enforcing rights that accrue from a federal statute as interpreted by federal courts becomes law, then the entire concept of federalism would be destroyed. In effect Title VII of the Civil Rights Act would be subject to 50 different interpretations by the courts of 50 different states instead of being interpreted by the courts of the federal judicial system. Clearly this was not the intent of Congress. As this court has said, while state courts are the final expositors of state law, the federal judiciary has primacy in deciding questions of federal law. England v. Medical Examiners,

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(10) See e.g. Siler v. Louisville & Nashville R. Co., 213 U.S. 175, 191 (1909); Hurn v. Oursler, 289 U.S. 238, 243 (1933); United Mine Workers v. Gibbs, 383 U.S. 715, 721-729 (1966); Rosado v. Wyman, 397 U.S. 397, 405 (1970).

375 U.S. 411, 415 (1964); Oregon v. Mitchell, 400 U.S. 112, 249 (1970). Included among the areas of law reserved to the states, is the power of a state to set the terms on which it will permit litigation in its courts. Cohen v. Beneficial Industrial Loan Corp., 337 U.S. 541 (1949). A logical corrollary of this rule, is that a state can set minimal procedural requirements for litigation before its administrative agencies.

Respondent herein has contended throughout this brief, that the scope of this petition is really limited to the procedural aspects of Connecticut's Fair Employment Practices Act. Connecticut is free to interpret its own laws and to establish its own administrative procedures, so long as they are consistent with federal constitutional guarantees. There is nothing in the decisions of either the Connecticut trial court or its Supreme Court, dealing with the procedural failings of the Petitioner in expanding its order to include a class of persons not properly summoned before it or in limiting the award of back pay to 90

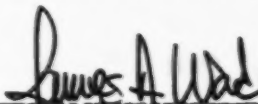
days prior to the date of the complainant's complaint that flies in the face of the Constitution.

What the Petitioner seeks to do however, is to challenge the autonomy of the state courts and to circumvent the state's legislative and judicial rule making process by engrafting a federal law onto the state of Connecticut. It is contended that there is no authority for such a procedure. The trial and appellate courts of the State of Connecticut are fully competent to protect the substantive civil rights of all of its citizens, including both employees and employers. But to create a new reverse "pendent jurisdiction" which would not only vest state courts with the power to interpret federal statutes, but with a duty to enforce the same, would be unwise.

CONCLUSION

For all of the foregoing reasons, it is respectfully submitted that the Petition for a writ of certiorari should be denied.

Respectfully submitted,



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December 28, 1973

IN THE

SUPREME COURT OF THE UNITED STATES

October Term, 1973

No. 73-703

CONNECTICUT COMMISSION ON HUMAN RIGHTS AND OPPORTUNITIES,

Petitioner,

v.

VEEDER ROOT COMPANY, A DIVISION OF VEEDER INDUSTRIES, INC.,

Respondent.

APPENDIX TO BRIEF FOR

RESPONDENT IN OPPOSITION

APPENDIX A

STATE OF CONNECTICUT

Commission on Human Rights and Opportunities

HILDA G. MOE, Complainant	)
vs.	) Complaint No. F.E.P.-Sex 4-1
VEEDER-ROOT, INC. Respondent	) Feb. 26, 1969

Complaint Against Unfair Employment Practice

To the Commission on Human Rights and Opportunities: I Hilda G. Moe, residing at 56 Water St., So. Glastonbury, complain and say that Veeder-Root, Inc., residing at 28 Sargeant St., Hartford, is violating subsection (a) of Section 31-126 of Chapter 563 of the General Statutes of Connecticut, as amended.

On or about January 22, 1969, I spoke with Charles Smith, the general manager of my department, to ask him why women assemblers in my department were doing the same jobs as the men assemblers-yet the women were only receiving $2.21/hr. while the men received $2.69/hr. Mr. Smith stated that there were a lot of things that men were supposed to do that women weren't doing. The things he then mentioned I have not seen men doing. I asked to see the men's job classification which he refused to show me.

After July 7, 1965 when the Civil Rights Law of 1964 went into effect I had also asked my supervisor when women would start getting the same pay as men. After consulting a

superior, my supervisor stated, "This company isn't ready to pay women the same as men!"

I have worked for this company for twenty years. I have been working in Dept. 99 for nine years now. I do not feel the men are doing any different work than the women are. On the basis of these two incidents and my past experience in this company, I feel I am being discriminated against because of my sex (female).

Dated at Hartford this 26 day of February,1969.
Hilda G. Moe

Subscribed and sworn to before me this 26 day of February, 1969.
Attest: A True Certified Copy
Judith V. Beirs

APPENDIX B

STATE OF CONNECTICUT

Commission on Human Rights and Opportunities
90 Washington Street, Hartford, Connecticut 06115

Notice of Public Hearing

To: Veeder-Root Co.
799 Main Street
Hartford, Connecticut

Attention: L.E. Baldwin, Vice President
(Veeder Industries, Inc.)

Pursuant to Section 31-127 of the Connecticut General Statutes as amended, and to Section 31-125-19 of the Rules and Regulations of the Commission on Human Rights and Opportunities, we herewith transmit a certified copy of the complaint of Hilda G. Moe relative to her complaint filed with the Commission on Human Rights and Opportunities on February 26, 1969

in accordance with the provisions of Section 31-126 of the Connecticut General Statutes as amended.

Notice is hereby given to you to appear for a hearing to be held in Room 302, 90 Washington Street, Hartford, Connecticut on Tuesday, the 20th day of January 1970 a.d. at ten o'clock in the morning upon said complaint against you and to answer the charges of said complaint.

You may by yourself or your attorney file an answer to this complaint in writing signed by yourself or your attorney, and filed with two copies at the office of the Commission on Human Rights and Opportunities at 90 Washington Street, Hartford, Connecticut, within five days of date of service of this complaint. Failure to file such an answer shall be deemed an admission of the allegations of this complaint.

Dated at Hartford, Connecticut this 19th day of December 1969 a.d.

Connecticut Commission on Human Rights & Opportunities

By Arthur L. Green
Director

Enclosure:
(1) Complaint dated 2-26-69
Attest,

Nathan Ticotsky
Deputy Sheriff

APPENDIX C

In the Matter of:
STATE OF CONNECTICUT
COMMISSION ON HUMAN RIGHTS
AND OPPORTUNITIES

ex rel. HILDA G. MOE Complainant	)
vs.	) December 30,1969
VEEDER-ROOT COMPANY DIVISION OF VEEDER INDUSTRIES, INC. Respondent	)

Answer of Respondent Veeder-Root Company

Respondent denies any violation of Section 31-126, subsection (a), of Chapter 563 of the General Statutes of Connecticut as amended with respect to Complainant Hilda G. Moe.

Veeder-Root Company
Division of Veeder Industries Inc.
By Lucian E. Baldwin
Vice President
Veeder Industries Inc.
P.O. Box 627
Hartford, Connecticut 06102